

**Report To:** Performance Scrutiny Committee

**Date of Meeting:** 18<sup>th</sup> October 2012

**Lead Member / Officer:** Cll David Smith / Paul Mead

**Report Author:** Paul Mead

**Title:** Update of Planning Compliance

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**1. What is the report about?**

The report sets out to explain the way the statutory function of Planning Compliance (Planning Enforcement) is undertaken by the Council. It will explain the work of the Planning Compliance team in dealing with potential breaches of planning control and also their role within the wider Regeneration Enforcement Group. The report will highlight current higher level priorities for the team and explain how some of the lower level work can be dealt with.

**2. What is the reason for making this report?**

To provide information to Committee on the role of the Planning Compliance team and to address any concerns Members may have in relation to on-going performance, priorities and resources.

**3. What are the Recommendations?**

That Committee notes and comments on the contents of the report and suggests possible future improvements.

**4. Report details.**

**Background**

The Town and Country Planning system in Wales regulates the use and development of all land and buildings. Local Planning Authorities may need to consider taking enforcement action against unauthorised development or any breach of a planning condition imposed as part of a planning permission.

Although in itself it is not a criminal offence to carry out an unauthorised development or make a change in land use, powers are available to Local Planning Authorities to bring unauthorised development under planning control. Failure to comply with enforcement action is an offence.

Under Part VII of the Town and Country Planning Act 1990, Local Planning Authorities have a range of enforcement powers to address breaches of planning control. These powers are discretionary.

Attached as **Appendix 1** is a Welsh Government quick guide leaflet which explains what Planning Enforcement is.

### **Current DCC Planning Compliance Function**

In Denbighshire, Planning Enforcement is dealt with by the Development Control and Compliance team based in Caledfryn, Denbigh. The team sits within the Planning and Public Protection Service.

The team is managed by the Development Control and Compliance Manager and currently has 2no. full time Officers handling the case load for the whole County. A third Officer is currently on a sabbatical to Australia and has confirmed that he will not be returning to his post.

The team handle around 500 planning related complaints per year.

Attached as **Appendix 2** is the draft Denbighshire Planning Compliance Policy and Procedure document which sets out how the team deal with complaints. This document needs to be further reviewed and formally adopted.

Since 2011 the Planning Compliance team have been part of a Service wide Regeneration Enforcement Group. The purpose of this group was to bring together all relevant regulatory teams within the Service with the aim of regenerating “eyesore” sites through the use of various enforcement powers. The Planning Compliance team plays a key role in this group using various legislative powers to deal with untidy and derelict sites and buildings.

The group have created a scoring matrix to highlight priority problem sites. These sites often require a holistic approach in order to secure environmental and community enhancements. This approach uses planning enforcement and other enforcement powers to greater effect targeting difficult sites and land owners in a project based way resulting in a more sustainable longer term outcome. Sometimes simply serving enforcement notices to try to tidy up a vacant or problem site does not address the longer term issue of finding viable and suitable uses.

By working in this way the Planning Compliance team have had to try to prioritise work. This has been done by separating the high level planning breaches and regeneration/eyesore projects from the lower level, day to day planning breaches that are minor in nature.

Officers are aware that for an individual making a planning related complaint their complaint will be a priority. However, a good proportion of the planning related complaints received relate to relatively minor potential breaches. These can be minor changes of use or neighbour disputes that may not warrant formal action. In dealing with such breaches Officers often become mediators. Whilst this can be a valuable resource for members of the Community it may not be the best use of a professional Officers time. Tackling the eyesore sites, using professional, legal judgement and serving appropriate notices on offenders would realise wider benefits to the community in the longer term.

As part of a Service wide restructure under way Officers are looking at more efficient ways of managing the higher level planning compliance work, including eyesore sites, and the lower level cases. It is thought more appropriate to direct specialist planning compliance Officers to deal with higher level work on identified problem sites, monitoring legal agreements and ensuring planning conditions are complied with. Disputes over fence heights between neighbours, fly posting or other minor planning breaches could be more readily handled by Officers in other Public Protection or Community Safety teams.

These operational issues will be moved forward as part of the restructure process, however, Officers are confident that this more focussed approach will create more effective outcomes for all concerned in the community by using existing staff resources more efficiently. The Project Proposal document relating to the on-going restructure of the Compliance function is attached as **Appendix 3** for information.

## **Performance**

Historically the accepted performance measure for dealing with planning complaints has been the speed that the complaint has been dealt with. The accepted all Wales target has been to deal with a complaint within 12 weeks from it being registered. Denbighshire continues to measure this performance and for last year (2011/12) it dealt with around 60% of its complaints within the specified 12 week period.

However, this indicator tends to overlook much of the more strategic work which the team are part of in addressing longer term problem sites and buildings.

It is suggested that more focussed indicators can be created around the monitoring of s.106 legal agreements, tackling problem sites and buildings, including eyesore sites, and dealing with planning compliance cases flagged up by Town and Community Council's.

Attached as **Appendix 4** for the information of Committee is a list of Planning Compliance issues categorised as high and low level. As part of the on-going restructure process discussions will progress with relevant colleagues in Public Protection and Community Safety teams over their role in tackling some of the lower level issues.

## **5. How does the decision contribute to the Corporate Priorities?**

The report is not seeking any formal decision. The re-focussed approach to Planning Compliance in conjunction with other regulatory powers will contribute to the regeneration aims of the Council. The work of the Planning Compliance team will also contribute to the Corporate Plan aim of achieving clean and tidy streets.

## **6. What will it cost and how will it affect other services?**

There should be no financial or other implications on services.

## **7. What consultations have been carried out?**

No consultations have been carried out on this paper, although the Planning and Public Protection phase 1 restructure has been out to consultation with staff and unions.

#### **8. Chief Finance Officer Statement**

**N/A**

#### **9. What risks are there and is there anything we can do to reduce them?**

There are risks associated with failing to provide a co-ordinated and robust Planning Compliance function. Officers do not feel this is the case at this point. The suggestions made in this report for a more focussed approach to all regulatory functions will serve to improve the performance in this area.

#### **10. Power to make the Decision**

The power to take appropriate Planning Enforcement action is contained within Part VII of the Town and Country Planning Act 1990.